

**CALIFORNIA COASTAL COMMISSION**

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## COASTAL DEVELOPMENT PERMIT APPLICATION

**Application number.....3-02-094, Mission Trails Nature Preserve Master Plan**

**Applicant.....**City of Carmel by the Sea

**Project location.....**Rio Road at the southern edge of the City limits, City of Carmel-by-the-Sea, Monterey County (APN 009-341-001, 009-341-008, 010-061-005). See Exhibit 1.

**Project description.....**Five-year permit for park maintenance and management activities. Allows implementation of “Mission Trails Nature Preserve Master Plan” which includes use of mechanized equipment to restore a stream channel and to periodically repair an emergency access road. Also includes periodic trimming and clearing of vegetation to preclude obstruction of drainage channel and to maintain access, scenic and habitat features of the park.

**File documents.....**Commission-approved Land Use Plan (3/03); Prior Mission Trails Nature Preserve 5-year plan (3-97-053).

**Staff recommendation ....Approve with Conditions**

**Summary:** Mission Trails Nature Preserve is the City of Carmel-by-the-Sea’s largest inland park. It is an important recreational asset and an equally important natural resource area. Nearly all of it is designated environmentally sensitive habitat. It represents a scenic resource and provides an important visual context for the historic Mission at the southeastern edge of the village. The Mission Trails Nature Preserve Master Plan provides a resource-based approach for maintenance and management activities within the park’s boundaries, that seeks to protect the riparian corridor and rare plant habitats found within the park, while allowing drainage channel maintenance needed to prevent flooding. The Plan was completed with revisions in 1996. In 1997, the Commission approved CDP 3-97-053 authorizing its implementation over a five-year period. Since that time the Plan has been updated and supplemented by corresponding LUP policies approved by the Commission in March 2003.

This permit application requests that the Commission renew its authorization of plan implementation for another 5-year period. Staff recommends approval with conditions to protect public parking. This is achieved by precluding the establishment of any exclusionary parking program without separate review and approval by the Commission. Additionally, the recommended special conditions require that the Master Plan will be implemented in accordance with the recently approved LUP policies, and requires the



**California Coastal Commission**  
**May 8, 2003 Meeting in Monterey**

Staff: Michael Watson Approved by:

applicant to notify the Executive Director of the project and the measures that will be implemented to avoid adverse impacts prior to commencing significant development activities. With these conditions, implementation of the MTNP Master Plan will protect coastal resources and enhance public access and recreational opportunities consistent with the Chapter 3 policies of the Coastal Act.

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## 1. Staff Recommendation on CDP Application

The staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development.

**Motion.** I move that the Commission approve Coastal Development Permit Number 3-02-094 for the development proposed by the Applicants.

**Staff Recommendation of Approval.** Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**Resolution to Approve the Permit.** The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the



development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

## 2. Conditions of Approval

### A. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### B. Special Conditions

1. **Scope of Permit.** This coastal development permit authorizes the development activities listed in the Mission Trails Nature Preserve Master Plan, as specifically described by the Master Plan and as revised and supplemented by the approved Carmel-by-the-Sea Land Use Plan (March 2003). All development shall be implemented in accordance with the applicable policies of the approved Land Use Plan. This permit does not authorize any reduction in available public parking in the vicinity of the park, such development shall require a separate coastal development permit or amendment to this permit..



2. **Project Specific Plans and Notification Procedures.** AT LEAST TEN WORKING DAYS PRIOR TO INITIATION OF ANY ACTIVITY INVOLVING THE PLACEMENT OF RIP-RAP, GRADING, TRAIL EXPANSION OR CONSOLIDATION, OR REMOVAL OF SIGNIFICANT VEGETATION, the permittee shall notify the Coastal Commission Executive Director of the proposed development. In each instance, the required notification of proposed development shall be accompanied by a project description and plans for identifying the specific development activities, locations, construction methods, and mitigation measures that will be implemented in accordance with the Master Plan and IUP to ensure sensitive biological resources and coastal water quality will be protected both during and after construction. All maintenance and management activities shall be designed and carried out consistent with the resource protection policies, objectives, and goals of the recently approved (March 2003) Land Use Plan.
3. **Seasonal Limitations.** Except where public safety, private or public property, or environmentally sensitive park resources are immediately threatened, or where there is no feasible alternative, operation of mechanized equipment (i.e., motorized construction vehicles) in or immediately adjacent to stream channels shall be postponed until the channel has dried for the season.
4. **Amendment Procedures.** Any amendments or updates to the Master Plan shall be submitted for a determination of materiality by the Executive Director. Such changes shall not become effective unless and until they have been determined by the Executive Director to be immaterial or if found to be material, have been approved by the Commission in accordance with its procedures for permit amendments.
5. **Expiration.** This permit is valid for a term of 5 years from the date of approval. It may be periodically extended for an additional 5 years in accordance with the amendment process specified above, following a review of the preceding five year period, identification of any changed circumstances, and incorporation of any modifications needed to insure continued conformance with Coastal Act requirements. Amendment requests to extend this permit for an additional five years shall be submitted prior to the expiration date of this permit.

### 3. Recommended Findings and Declarations

The Commission finds and declares as follows:

#### A. Project Location and Description

Carmel's Mission Trail Park is an approximately 35 acre open space area at the southeasterly corner of the City. It occupies a modest tributary canyon, which opens to the historic Mission on Rio Road and is aligned with the paths, which once connected the mission to the Spanish and Mexican-era capitol at Monterey.

Now, the canyon is part of the City park system and provides both habitat protection and low-intensity



recreational opportunities. The City has created a Master Plan for the park, now renamed Mission Trails Nature Preserve. The Master Plan lists an extensive array of policies, goals, and objectives for management of the preserve, all for the purpose of protecting its natural resources and recreational values.

The City and Coastal staff both recognized the value of having a comprehensive resource management plan for Mission Trails Nature Preserve when the Plan was first approved in 1997. It was also recognized at that time that considerable efficiencies would be possible through approval of such a plan under the Commission's coastal permit process. This approach would avoid the multiple separate permit determination requests, waiver requests, and permit applications for relatively minor activities that trigger the need for a permit. Accordingly, a five-year permit authorizing plan implementation was granted by the Commission in 1997.

The five year term and the current request for renewal, provides an opportunity for periodic review and if needed, an update of the plan. A significant change since 1997 is the Commission's recent approval of the City's Land Use Plan, which contains the Master Plan as an appendix. The LUP incorporates the management measures of Master Plan and, in addition, provides broader protection measures for sensitive habitat, riparian and wetland habitats, as well as water quality and other coastal resources. To bring the Master Plan into compliance with the broader protection measures of the LUP, staff recommended two modifications to the Master Plan. The first modification requires the City to allow the channelized ditch to revert to a more natural channel. The second modification was to not place any limits on the ESHA boundaries. A natural channel provides downstream benefits to riparian and wetland resources, visual resources, and coastal water resources. ESHA resources do not follow manmade boundaries such as park boundaries. Staff found that as modified, the MTNP Master Plan was consistent with the Chapter 3 policies of the Coastal Act and that the implementation of its management measures would be adequate to protect and enhance the natural resources and public recreational opportunities of the park. These modifications were approved by the Commission in their action on the Carmel LUP.

The majority of management measures listed in the Master Plan do not constitute "development" and therefore are not subject to the Commission's coastal permit requirements. Examples of such activities include tree trimming and educational programs. However, a few proposed activities such as placement of a small amount of rip-rap to stabilize an eroding slope of the canyon main drainage channel or significant removal of vegetation, clearly qualify as "development" within the meaning of the Coastal Act.

A number of other management activities may also fall within the category of development depending on how they are implemented. For example, where multiple makeshift trails are found in areas, trail consolidation is proposed to protect habitat. If this is done in a way which simply identifies one of the existing routes as the primary trail, no permit would be required. On the other hand, if grading, bridge building or other structural improvements were involved, then the activity would constitute development. Therefore, in order to properly document these cases and to provide an opportunity to review such proposals for conformance with the approved Master Plan and the Coastal Act, this permit is conditioned to require submittal of a plan for Executive Director review and approval in each instance prior to commencement of construction.



## B. Standard of Review/LCP History

The entire City of Carmel falls within the coastal zone, but the City does not yet have a certified LCP. While the Commission approved the LUP with modifications on March 6, 2003, the City has not yet formally adopted the suggested modifications or completed the implementation phase of its Local Coastal Program. Therefore, pending LCP completion, all non-excluded development is subject to coastal development permit approval by the Commission and compliance with the requirements of the Coastal Act. Maintenance activities such as those proposed by the Mission Trails Nature Preserve Master Plan are not excluded from the coastal development permit requirements of the Coastal Act. As a result, although the recently approved Land Use Plan policies can provide context and guidance, the standard of review for this application is the Coastal Act.

## C. Environmentally Sensitive Habitat

*Section 30240. (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*

Related policies include Section 30231, which requires the protection of coastal waters through various means, including controlling runoff, preventing substantial interference with surface water flows, and “maintaining natural vegetation buffer areas that protect riparian habitats...” Sections 30233 limits diking, filling, or dredging of wetlands to specific purposes, including restoration and requires that any such work “shall maintain or enhance the functional capacity of the wetland...” Section 30236 limits channelization and other substantial alterations of streams to certain situations such as “flood control projects where no other method... is feasible and where such protection is necessary... to protect existing development...” This section also requires incorporation of the “the best mitigation measures feasible...”

Additionally, the LUP provides broad policy guidance for the identification and protection of environmentally sensitive habitat. Appendix E: ESHA Study describes and maps the known ESHA within Mission Trails Nature Preserve. The Study makes it clear that the maps show just currently designated ESHA and provides for identification of additional ESHA in the future. The LUP also affords protection of ESHA from most new development including management measures to ensure that public development is compatible with resource protection. Policy P9-256 mimics Coastal Act language to “protect environmentally sensitive habitat areas against significant disruption of habitat values.” The City’s LUP also includes a variety of important policies to minimize landform alteration, avoid significant removal of vegetation, and address water quality issues. The LUP has a series of mitigation and management measures designed to minimize impacts to coastal resources and aquatic habitats.

## Resource Description

Most of Mission Trails is identified in the LUP as environmentally sensitive habitat area (ESHA). Specific types of protected habitat include willow riparian forest, wet meadow, native Monterey pine forest on ancient dunes, rare animal (Monterey Dusky Footed Woodrat) and rare plant (Hickman’s onion) habitats. The current location of these habitat’s are shown on pages 13 & 14 of Exhibit 2 attached. Also



shown are the locations of the intermittent stream channels, which drain the area during the winter wet season.

The canyon within the park is a tributary to the Carmel River Lagoon. Drainage from the site enters culverts at the southern extremity of the park and is conveyed to the lagoon under Rio Road. Blockage or impairment of these culverts will result in flooding of Rio Road, the main access route into Carmel from the south. Such flooding could also potentially impact the low-lying Mission Fields residential neighborhood, immediately southeast. Thus, a primary focus of the plan is to maintain the flow capacity of this drainage channel in a manner that also protects riparian, wetland, and aquatic habitats.

### Project Impacts

The overall purpose of the Master Plan is to ensure the long-range protection of the Nature Preserve's ESHA's and to provide for public enjoyment of the area without damage to the protected resources. Accordingly, the plan calls for measures which are for the purpose of protecting habitat but which may be subject to the coastal permit process. The primary examples are clearance of significant stands of exotic vegetation such as eucalyptus trees, trail consolidation or extension needed to reduce recreational overuse impacts or improve nature study opportunities, and stream channel maintenance involving removal of obstructions to natural stream flow and placement of very limited rock slope protection [rip-rap] to reduce erosion.

Stream channel maintenance will help to restore normal directions of flow, reduce undercutting of riparian vegetation, and minimize the risk of erosion in the wet meadow area. It will also serve as a preventative measure to reduce the risk of erosional loss of the park's trail system, including the road-width Serra Trail, and will reduce the risk of flooding of Rio Road and nearby residences. However, correction of erosion and removal of obstructions will likely involve operation of motorized machinery in and around the stream channel. Such operations could have short-term impacts such as increased sediment loading unless the methods employed are designed to minimize disruptions within the stream channel.

Likewise, trail improvements will generally yield positive results, especially where the impacts of recreational overuse will be mitigated by trail consolidation and where public understanding and support will be enhanced through improved nature observation opportunities. However, the specific methods used in a particular instance could have either short-term or long-term impacts. For example, installation of a boardwalk in a wet meadow area would cover a small strip of habitat, but it would help to protect a much larger area from compaction and erosion produced by frequent random foot traffic.

### Analysis

No significant changes are proposed within the Nature Preserve and the existing trail system will be retained with only modest repairs and enhancements. Continued operation of the trail system is essential for public understanding and appreciation of these protected areas. Therefore, it is a resource-dependent use, which Section 30240 allows within an ESHA. Likewise, no diking, filling, or dredging of the seasonal stream channel is proposed, except for minor erosion control work and removal of obstructions as needed to restore natural stream flows. These activities do not constitute "significant disruption" of the



ESHA within the meaning of Coastal Act Section 30240.

Implementation of the Master Plan will control runoff in order to minimize erosion, remediate obstacles such as fallen logs and other debris which would interfere with natural surface flows, and preserve natural vegetation buffer areas and riparian habitat. Therefore, the project will be consistent with and help to implement Coastal Act Section 30231. Certain activities will be performed to maintain existing channels within the seasonal stream corridor, and in the vicinity of the wet meadow area. However, no channelization, dredging, diking, or other substantial stream alterations are contemplated within these wetland habitats. Therefore, on these grounds, Coastal Act Sections 30233 and 30236 do not apply. The intent of the Coastal Act Sections to protect wetlands and streams from significant disruption is nonetheless met because: a) the proposed channel maintenance work is strictly for restoration purposes as needed to maintain functional capacity; b) no other feasible, less damaging alternative has been identified; c) the short-term impacts of using mechanized equipment around the stream channels can be mitigated through seasonal restrictions which restrict equipment operation while water is present in the channel; and d) the proposed activities amount to a flood control measure needed to protect roads, houses and public recreational facilities located in the Carmel River floodplain.

Conversely, the placement of rip-rap, extensive grading, and removal of significant vegetation *do* have the potential for “significant disruption” of ESHA within the meaning of Coastal Act Section 30240. The City is not contemplating having to implement these activities except in rare instances where they are necessary to protect public safety by arresting streamside erosion or preventing flooding, for example. In order to ensure that these types of development activities do not result in degradation of sensitive habitat or coastal waters, the Commission has attached Special Conditions 2 and 3. Special Condition 2 requires advance notice of the proposed development and Executive Director review and approval of the proposed development activities, methods, and locations. Special Condition 2 also requires that each development activity be designed and carried out consistent with the resource protection provisions of the LUP, such as those calling for the Park’s main drainage course to be restored to a more natural stream. Special Condition 3 places a seasonal limitation on work within the streambed and channel. Operation of mechanical equipment in the channel or immediately adjacent thereto must be postponed until the channel has dried for the season. Incorporation of these special conditions will protect against significant disruption and loss of habitat values, minimize erosion, and maintain the quality of coastal waters. In addition, only as conditioned can the proposed Mission Trails Nature Preserve Master Plan be found consistent with Chapter 3 of the Coastal Act.

Application of the City’s recently approved Land Use Plan policies will provide an additional measure of coastal resource protection for sensitive habitat and coastal waters. A significant portion of the LUP is devoted to minimizing runoff and preserving water quality as well as providing adequate environmental protection of sensitive habitat. The Commission has conditioned the permit to ensure that plan implementation is carried out consistent with the resource protection measures prescribed by the LUP. Special Condition 1 requires that all development be carried out in accordance with the Master Plan policies *and* the applicable policies of the March 2003 approved Land Use Plan. Again, only as conditioned can the Master Plan be found consistent with Chapter 3 of the Coastal Act.





## Conclusion

The project comprises the various resource management activities to be implemented under the Mission Trail Nature Preserve Master Plan. As conditioned to restrict equipment operations in and around the stream channels during the wet season, it is consistent with the Coastal Act policies for the protection of ESHA's. As an additional safeguard, this permit is also conditioned to require that specified categories of trail enhancement, stream channel work, grading, and significant vegetation removal be subject to specific project-by-project review by the Executive Director, and that all management activities be designed and implemented consistent with the resource protection policies of the City's Land Use Plan.

## D. Public Access and Recreation

Coastal Act Section 30210 calls for maximum access and recreational opportunities, consistent with needs such as public safety and protection of natural resource areas from overuse. Section 30212.5 addresses the need to distribute public facilities to mitigate the impacts of overcrowding, and Section 30213 requires that lower cost visitor and recreational facilities be protected. Section 30214 requires that access be implemented in a manner appropriate to the site. Section 30223 supports the reservation of upland areas for coastal recreational uses.

Mission Trails Nature Preserve has been an important public recreational asset since the 1970's. The preserve provides ample opportunities for outdoor walking and nature study on its almost three miles of scenic trails. The submitted Master Plan will assure that this area will continue to be managed for these "passive" recreational uses, including the distribution of use throughout the park in order to avoid the overuse of any single area. There is no visitor fee for park use.

A possible concern, however, is that the continued popularity of the preserve could result in parking impacts on surrounding neighborhoods. This in turn could lead to proposals for exclusionary parking programs. No automobile parking is contemplated within the park, nor because of the extensive area of ESHA, is any appropriate. Accordingly, this permit is conditioned to make clear that any program that would reduce available public parking in the vicinity of the Nature Preserve, will require a separate coastal development permit action by the Commission.

Therefore, as conditioned, approval of the project (Mission Trails Nature Preserve Master Plan) under the Commission's coastal permit process will conform with the above-cited Coastal Act sections regarding public access and recreation.

## E. Scenic Resources

Coastal Act Section 30251 requires that the scenic and visual qualities of coastal areas be protected and, where degraded, restored and enhanced. Mission Trails Nature Preserve represents a scenic resource of considerable importance and helps provide an important visual context for the historic Mission, which has otherwise been severely encroached upon by residential development. Approval of the Master Plan will support the continued protection of this scenic resource, thereby conforming with the requirements of



Section 30251.

## F. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This staff report has discussed the relevant coastal resource issues with the proposal, and has recommended appropriate mitigations to address adverse impacts to said resources. All public comments received relevant to this application have been addressed either in these findings or in other correspondence. Accordingly, the project is being approved subject to conditions, which implement the mitigating actions required of the Applicant (see Special Conditions). As such, the Commission finds that only as modified and conditioned by this permit will the proposed project not have any significant adverse effects on the environment within the meaning of CEQA; that there are no feasible alternatives that would significantly reduce any potential adverse effects; and, accordingly, the proposal, as conditioned, is in conformance with CEQA requirements.

